

short, the inseverability issue alluded to in Paragraph 822 of the Recommended Decision is a "red herring."

If the FCC's ability to establish intrastate interconnection rates under Section 251 may be characterized as questionable (the United States Court of Appeals for the Eighth Circuit appears to believe that it is), the FCC's ability to appropriate intrastate revenues for universal service can be fairly characterized as highly questionable. That legal infirmity, coupled with the uncertain financial implications associated with the unresolved issues in this docket, compels the PUCO to qualify its endorsement of the dual funding base proposal on the outcome of this proceeding and to reserve its right to legally challenge the FCC's decision.

The PUCO notes that if the FCC determines that Section 254 provides it with the requisite authority to place assessments on intrastate revenues to fund interstate high cost funding programs (*arguendo*), the PUCO maintains that the FCC must place a reasonable cap on the level of such funding. In particular, the PUCO submits that this funding level should be limited to 40 percent of the overall revenue shortfall between proxy results and the benchmark rate. For example, if the difference between the benchmark and the results of the proxy model of a certain company in a specific service are is \$10.00 per access line, the FCC under this scenario should limit federal high cost funding assistance to \$4.00. The PUCO maintains that the level funding for the remainder of the shortfall should be determined by the individual states at the discretion of the individual states.

Additionally, if the FCC determines that Section 254 provides it with the requisite authority to place assessments on intrastate revenues to fund interstate high cost funding programs (and as discussed earlier in these comments, lifeline programs), the PUCO maintains that the FCC must adopt a *quid pro quo* approach to funding of such programs. That is, the FCC should also acknowledge that, if it is

going to utilize intrastate revenues to fund federal programs, the states will also be able to place assessments on the revenues generated by interstate carriers providing intrastate services. This assessment, similar to the FCC's proposal, would be based on all revenues, both interstate and intrastate, originated and generated within the boundaries of the state.

CONCLUSION

In closing, the PUCO wishes to thank the FCC for the opportunity to file comments responding to the Joint Board's Recommended Decision.

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**Case No. 95-845-TP-COI
Appendix A**

described in Section V.B.4. of these guidelines, of providing ducts, conduit space, and access to right-of-way and a reasonable allocation of the forward-looking joint and common costs incurred by the providing carrier and satisfy the requirements of Section 224 of the 1996 Act. The allocation of the forward-looking joint and common costs shall be according to the allocation method described in Section V.B.4. of these guidelines.

C. Coordination

LECs shall coordinate their right-of-way construction activity with the affected municipalities and landowners. Nothing in this section is intended to abridge the legal rights and obligations of municipalities and landowners.

D. Disputes

1. Public utilities shall comply with Section 4905.51, Revised Code.
2. Disputes concerning the compensation or conditions of use or joint use of equipment may be brought to the Commission for resolution pursuant to Section 4905.51, Revised Code.

XIII. UNIVERSAL SERVICE

A. Definitions

1. Universal service establishes a minimum level of essential basic telecommunication services to be made available at just, reasonable, and affordable rates to all who desire such services. Universal service applies to all telecommunications carriers for the benefit of all residents in Ohio.

Universal service includes the following services:

- a. Residential single party, voice-grade access line;
- b. Touch-tone dialing;
- c. Access to telecommunications relay service;
- d. Access to operators and directory assistance;
- e. Access to emergency services (9-1-1/E-9-1-1) (where available);

- f. Availability of flat-rate service;
- g. Access to all available long distance carriers;
- h. A white pages listing, plus a directory;
- i. Blocking for Caller ID, Auto Callback, 900, 976, 976-like services, and toll restriction blocking; and,
- j. The capability of transferring data at a rate of 9600 bps by June 12, 1997 and 14,400 bps by December 31, 1998.

The list of services that comprise universal service will be periodically reviewed by the Commission and updated as telecommunications and information technologies and services advance and as societal needs dictate.

- 2. Universal Service Funding (USF) assistance has two separate and distinct components:
 - a. **High Cost Support (HCS)** is intended to ensure the provision of universal service to residential customers at just, reasonable, and affordable rates in geographic areas with high cost characteristics, (e.g., low population density, long loop lengths per household, or terrain features which cause plant installation to be expensive).
 - b. **Low Income Assistance** is intended to provide income-eligible residential customers who participate in designated federal or state low-income programs, with discounts for certain basic local services to assist participants in obtaining and maintaining access to the network.
- 3. **High Cost Support Eligible Area** is defined as a geographic area (i.e., approved by the Commission) within which the established HCS benchmark cost for the number of households in that area exceeds the ILEC's total intrastate residential revenues within that same geographic area.
- 4. **Income Eligible Residential Customers** shall be determined by their participation in federal and state low-income programs (e.g., Home Energy Assistance Program, Ohio Energy Credits Program, Supplemental Security Income, Medicaid, Aid for Families with Dependent Children). The Commission will periodically review the status of the programs used to determine income eligibility.

B. Universal Service Fund (USF) Contributions

1. All telecommunications carriers (i.e., facilities-based LECs, nonfacilities-based LECs, and CTS providers) shall pay into the intrastate Universal Service Fund (USF) pool via a USF charge, including those entities providing telecommunications services who pay into the interstate USF, but are exempted from registering with the Commission.
2. The USF support level will be based on each carrier's total intrastate revenues, including revenues received from subsidiaries (e.g., yellow pages revenues).
3. The USF percentage assessed to each carrier will be based on a statewide aggregation of required subsidies for all USF eligible services in the state. This percentage will be calculated and revised at least annually, as determined by the Commission and the fund administrator.
4. In determining the percentage to be assessed to each carrier, the Commission may also consider the extent to which a carrier is providing service in a nondiscriminatory manner within its service territory. In making such a determination, the Commission will consider the self-defined serving area of the carrier, the carrier's percentage of business vs. residential customers, and the extent to which the carrier serves low income customers. LECs not serving an appropriate proportion of residential and business customers will be required to contribute more to the USF than those LECs which do so.
5. The fund administrator will calculate at least annually, not to exceed quarterly, each carrier's obligation to the fund and will invoice each carrier accordingly. Payments on behalf of carriers to the fund shall be made at least annually, but not to exceed quarterly, as deemed appropriate by the Commission and the fund administrator.

C. High Cost Support Program

1. ILECs will retain the carrier of last resort obligation until such time as the Commission determines the carrier of last resort via a bidding process or other mechanism. During that interim period, any certified, facilities-based, LEC serving residential customers within a HCS eligible area may withdraw from the fund an amount no greater than the maximum subsidy established according to the methodology in Section E.1. below.

2. No sooner than one year after the enactment of these guidelines, the Commission will evaluate whether to implement a bidding process or some other mechanism for the carrier of last resort obligation as a requirement for ongoing eligibility for high cost support funding.
3. Any carrier accepting HCS monies must offer the services supported by universal service support and must advertise the availability of such services.

D. Low-Income Support Program

1. Effective immediately, all certified LECs that have not been otherwise exempted by this Commission shall participate in the Telephone Service Assistance and Service Connection Assistance Programs. Notwithstanding legislation that would establish otherwise, all LECs shall continue to provide the benefits of the TSA and SCA programs pursuant to the existing state and federal funding methodologies.
2. As of January 1, 1998, an LEC offering the following package of low income assistance to income eligible residential customers as defined in Section XIII.A.4., above, will be eligible for any incentives established in XIII.D.3., below, in addition to dollar for dollar recovery from the universal service fund according to the methodology in Section XIII.E., below.
 - a. A waiver of deposits required to obtain new service;
 - b. A waiver of the service connection charge for establishing local service, if it is more than \$5.00;
 - c. A monthly discount off of the basic local access line charge at an amount equal to the subscriber line charge;
 - d. A monthly waiver of the federal subscriber line charge;
 - e. A waiver of the charges for touch-tone service;
 - f. Discounted rates for call control features, i.e., toll restriction and blocking for 900 and 976 calls; and
 - g. A waiver of the charges for 9-1-1 and E-9-1-1.

The Commission may periodically re-evaluate and modify the package of services in this paragraph.

3. To encourage LECs to actively promote the package of low-income support programs described in Section XIII.A.4., such carriers will receive a partial offset against their contribution to the USF for each \$1.00 of subsidy received from the USF for provision of these low-income programs. The Commission will determine the appropriate amount of offset by June 12, 1998.
4. The Commission may consider prior commitments made by LECs in alternative regulation proceedings in determining the extent of eligibility for USF funding under Section XIII.D.2. and D.3. of these guidelines.

E. Support Withdrawal Criteria

1. High Cost Support Withdrawal

Until such time as the Commission establishes a carrier of last resort via a bidding process or other mechanism, any facilities-based LEC is eligible for HCS funding according to the following methodology:

- a. The calculation of the HCS subsidy will be done on the basis of existing ILEC wire center boundaries and will be designated a HCS study area.

Any ILEC or facilities-based NEC may petition the Commission to adopt an alternative HCS study area based on the specific characteristics of its service territory or its specific business operating practices. The petitioning LEC will have the burden of proof in demonstrating that its alternative proposed HCS study area boundaries will permit a more efficient comparison of benchmark costs and revenues.

- b. The benchmark costs will be calculated using the Census Block Group (CBG) benchmark costs from the "Benchmark Cost Model" as filed with the FCC in CC Docket No. 80-286. The Commission may also adopt any subsequent revisions to this model. The CBG costs will be aggregated to the HCS study area level by taking an average of CBG costs within that area weighted by the number of households in each of those CBGs. This weighted average cost will be the per household benchmark cost within the HCS study area. The benchmark costs will include an allowance for common costs.

- c. Any ILEC or facilities-based NEC may petition the Commission to adopt alternative benchmark costs based on company-specific analysis. The petitioning LEC will have the burden of proof in demonstrating that its alternative proposed benchmark costs more accurately reflect its true TELRIC costs within a given HCS study area.
- d. In each HCS study area, an ILEC, which provides service in that HCS study area, in whole or in part through its own facilities, will receive funding equal to the difference between total intrastate residential revenues from telecommunications services and total benchmark costs in that study area. Total intrastate residential revenues from telecommunications services include all revenues from intrastate retail residential services (including vertical services and any yellow pages revenues received from an affiliate, and any revenues from an affiliate that relate to the provision of intrastate telecommunications services), as well as wholesale payments by resellers for resale of residential services in that study area. Total benchmark costs are the calculated benchmark cost per household times the total number of households in the study area, less any avoided costs calculated according to Section V.A. of these guidelines.
- e. A facilities-based NEC serving a HCS study area, which provides service in that HCS study area, in whole or in part through its own facilities, will receive HCS funding equal to the difference between total residential revenues from telecommunications services and total benchmark costs in that study area. Total intrastate residential revenues include all revenues from intrastate retail services, as well as wholesale payments by resellers in that study area. Total benchmark costs are the calculated benchmark cost per household times the total number of households being served in that study area.
- f. Disbursements from the fund will be calculated based on 12 months of historical information on the number of households served, benchmark costs, and total residential revenues within each HCS fund eligible area. The amount of subsidy received may also be adjusted to account for any subsidies received from other federal or state programs, including any federal universal service fund that may be adopted by the FCC.

- g. Unless the Commission finds it otherwise appropriate because the involved carrier is subject to competition, ILECs are eligible for HCS funding according to the above methodology only if such carriers are not exempt under Section II.A.2. of these guidelines.
- h. In determining HCS funding, the Commission will consider all relevant factors, including the carrier's return on equity.

2. Low-Income Support Withdrawal

The calculation of the low-income subsidy will be the amount accrued by any LEC for discounting or waiving rates for services delineated under the low-income support program. The calculation of the amount of subsidy required for touch tone service, will be based on the actual incremental cost of providing that service. The calculation will be based only on program costs that are not recoverable through any other available subsidies or tax credits.

F. Universal Service Fund Administration

- 1. The USF shall be managed by a neutral, third-party administrator, which will be selected by the Commission through a request for proposal (RFP) process and will be subject to the Commission's oversight.
- 2. The ongoing necessity of an intrastate USF will be reviewed periodically by the Commission and the fund administrator.

XIV. NUMBER PORTABILITY

A. Principle

End users should have the ability to retain the same telephone number as they change from one service provider to another as long as they remain in the same location, or when moving within the same wire center and exchange area.

B. Definitions

Number portability refers to the ability of end users to retain their telephone numbers when they change their service, service provider, and/or their location.

1. Service Number Portability

Service number portability is the ability of end users to retain the same telephone number as they change from one type of service to another (e.g., POTS to ISDN).

2. Location Number Portability

Location number portability is the ability of end users to retain the same telephone number as they move from one NXX location to another.

3. Service Provider Number Portability

Service provider number portability is the ability of end users to retain the same telephone number as they change from one LEC to another, without changing service locations.

4. Location Routing Number

Location Routing Number (LRN) refers to an industry-developed call model to support permanent service provider number portability. LRN is a database system which does not rely on an absolute need to transport ported calls through the ILEC's network. Unlike RCF and DID, LRN should allow for enhanced calling services which rely on number identification (e.g., Caller ID, Call Trace, and blocking).

C. Commission Requirements

- 1. A facilities-based LEC not offering LRN service provider number portability shall provide interim service provider number portability on an RCF or DID basis.**
- 2. All facilities-based LECs shall provide LRN service provider number portability in accordance with the guidelines established below, and a time frame and manner to be established by the Commission in response to a open state-wide workshop.**
- 3. The Commission shall schedule a state-wide LRN number portability workshop within 120 days of the issuance of these guidelines. The workshop will seek to establish the time frame and manner of the implementation of LRN number portability in the state of Ohio.**

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Investiga-)
tion into the Disconnection of Local Tele-)
phone Service for the Nonpayment of) Case No. 95-790-TP-COI
Charges Associated with Telephone Services)
Other Than Local Telephone Service.)

ENTRY ON REHEARING

The Commission finds:

- (1) On June 12, 1996, the Commission issued a Finding and Order (the Order) in this matter by which, among other things, it adopted a new policy regarding disconnection of local telephone service. That order originally established October 10, 1996 as the effective date of the new policy. However, by entries issued on October 9, 1996 and October 16, 1996, the Commission acted to postpone the effective date of the new policy until February 13, 1996. Upon the effective date of the new policy, unless the Commission orders otherwise, certain specified provisions of Chapter 4901:1-5, Ohio Administrative Code (O.A.C.), will be suspended pending the completion of Case No. 96-1175-TP-ORD, a generic docket which was opened on December 5, 1996 for the purpose of addressing the need for making wholesale changes to our current MTSS rules.
- (2) Applications for rehearing of the June 12, 1996 Finding and Order were timely filed by several entities¹. On October 16, 1996, the Commission issued an entry on rehearing which addressed these applications for rehearing. Rehearing was denied to all rehearing applicants on all grounds except those described in this finding. The applications for rehearing filed by Cleveland, Edgemont/APAC, and OCC were granted to the limited extent necessary in order for the Commission to revise and, in doing so, to clarify that sentence² within the policy statement which originally said no more than that "[l]ocal

¹ Applications for rehearing were filed by Ameritech Ohio (Ameritech); AT&T Communications (AT&T); the city of Cleveland (Cleveland); The Edgemont Neighborhood Coalition, jointly with Appalachian People's Action Coalition (Edgemont and APAC); The Office of the Ohio Consumers' Counsel (OCC); and MCI Telecommunications Corp. (MCI). Responses to these applications for rehearing were filed by Ameritech, Edgemont/APAC, GTE, and OCC.

² See: The third paragraph of our "Statement of Policy" as it appears on page 22 of the Order.

service providers shall be permitted to disconnect a customer's access to toll service for nonpayment of charges incurred for toll service."

Essentially, the clarification made was that the Commission's new toll disconnection policy should not be interpreted as allowing for local service providers to engage in "universal" toll blocking for the nonpayment of toll debts owed to any one particular toll provider. Rather, the Commission clarified that local service providers "should be required to provide selective toll blocking service to all toll service providers, on a nondiscriminatory basis, pursuant to tariff." Finding that this requirement would eliminate any need to continue distinguishing between toll providers on the basis of whether or not they rely on a local service provider (to whom they sell their accounts receivable) as their principal billing agent, the Commission determined that, upon the effective date of the new policy, no longer would any such distinction be made within either the policy statement itself, or within the Minimum Telephone Service Standards (MTSS) rules. The Commission went on to identify the particular MTSS provisions which would be suspended for this reason upon the effective date of the policy³.

The Commission further elaborated that "[l]ocal service providers who also provide toll service, when they disconnect their own toll service customers for nonpayment of toll service charges, must utilize the same tariffed selective toll blocking service which they offer to all toll service providers."

In response to rehearing arguments raised by the OCC, to the effect that a local service provider should never be permitted to disconnect toll service except that which it has itself provided, the Commission, in its October 16, 1996 entry on rehearing, clarified that no local service provider is precluded from becoming the formal, contractual agent of a toll service provider for purposes of enforcing the billing, credit/deposit, and disconnection policies of that particular toll service provider. We take this opportunity to further clarify that, in no event, shall the agency agreement between any one or

³ The Commission amended the October 16, 1996 Entry on Rehearing in an entry nunc pro tunc which specifically identified these MTSS provisions, as follows: the second sentence of Rule 4901:1-5-25(A), O.A.C., the third sentence of Rule 4901:1-15-25(J), O.A.C., the last sentence of Rule 4901:1-5-26(E), O.A.C., and the parenthetical phrase found at the end of the second sentence of Rule 4901:1-5-27(A), O.A.C.

more local service provider and any one or more toll service provider be permitted to become a vehicle by which the parties to the agreement collude to effectively circumvent our policy favoring selective toll blocking over universal toll blocking.

Recognizing a need for an interim regulatory policy which would, pending ultimate resolution of our MTSS generic docket, protect subscriber access to toll service in much the same way as customer access to local service is currently protected, the Commission directed all toll service providers to establish, by the effective date of the new disconnection policy, their own toll billing, credit/deposit, and disconnection policies which should parallel those established for the provision of local exchange service in compliance with our MTSS rules. Towards this end, the Commission further revised and clarified its policy statement to indicate that, as regards billing, establishing credit/deposits, and disconnection, the procedural and substantive safeguards which are afforded to local exchange service applicants and subscribers under our MTSS rules should also inure to toll service applicants and subscribers, regardless of whether such toll service is provided by a local exchange carrier or an interexchange carrier.

- (3) Applications for rehearing of the Commission's October 16, 1996 entry on rehearing were timely filed on November 15, 1996 by three entities: The Ohio Telephone Association (OTA), GTE North Incorporated, and Ameritech Ohio. Responses in opposition to these three applications for rehearing were timely filed on November 25, 1996 by two entities: Cleveland and Edgemont/APAC.
- (4) The OTA, in its application for rehearing, argues that it was unlawful, unreasonable, and an abuse of discretion for the Commission to require the development and institution of "selective toll blocking": (1) based on the sparse evidence of record pertaining to the technical capability of local service providers to do so; (2) in the absence of any evidence of the costs and expenses associated with doing so; and (3) because, by doing so, the Commission has, in effect, arbitrarily and unreasonably compacted the implementation schedule it had otherwise already established for the statewide deployment of intraLATA equal access. The OTA also contends that the entry on rehearing is unreasonable, unlawful, and reflects an

abuse of discretion by the Commission to the extent that it prohibits the disconnection, without prior notice, "of toll service suspected to be the medium of fraud or subject to fraudulent abuse".

Regardless of whether rehearing is otherwise granted, the OTA requests clarification on four issues raised by the October 16, 1996 entry on rehearing, namely: (1) whether the entry contemplates the institution of "selective toll blocking" on an intraLATA basis when no alternative carrier can provide intraLATA interexchange service; (2) whether the entry requires the institution of "toll blocking service" only to the extent physically permitted by the switch of the affected local exchange company, or instead requires companies to install facilities that can accommodate "selective toll blocking" for all potential carriers using the service; (3) whether the investments, costs, and expenses associated with the development of "selective toll blocking" should, for intrastate purposes, be allocated to regulated accounts; and (4) whether the entry prohibits the immediate disconnection of toll service suspected to be the medium of fraud or the subject of fraudulent use.

- (5) Each of the arguments raised by the OTA, as described above, were also echoed in GTE's November 15, 1996 application for rehearing. GTE also joins with OTA in seeking clarification of the same issues on which the OTA seeks clarification, even if rehearing is not granted. Moreover, GTE claims that the Commission erred by requiring "selective toll blocking" for two additional reasons: (1) because the cost of implementing it will be borne by local exchange carriers, who will receive absolutely no benefit from the new policy; and (2) because the Commission should have instead imposed a policy which would permit a local exchange company to block all 1+ toll access to customers who have failed to pay their toll bills. GTE requests that rehearing should be granted for the purpose of allowing the Commission to conduct evidentiary hearings to determine the technical feasibility and costs of implementing selective toll blocking. GTE suggests that such a hearing would lead the Commission to a different result: a determination that universal toll blocking should be permitted.
- (6) Ameritech argues that rehearing should be granted on two grounds. First, much like the OTA and GTE, Ameritech argues that the Commission acted unreasonably and unlawfully

in imposing the requirements that local service providers selectively block customers' toll service and offer selective toll blocking to all other toll service providers pursuant to tariff. Ameritech suggests that this proposition is supported in three ways: (1) because the Commission failed to undertake either a feasibility analysis or a cost benefit analysis, there is inadequate record support for the imposition of the new selective toll blocking requirement; (2) the Commission failed to follow the applicable statutes in imposing the requirement; and (3) the new policy unreasonably forbids the imposition of universal toll blocking.

Second, Ameritech claims that rehearing should be granted on an entirely separate ground, namely that the Commission acted unreasonably and unlawfully in adopting, and affirming on rehearing, the requirement that the disconnection of toll service for nonpayment of toll charges be subject to the same notice requirements as the disconnection of local service for nonpayment of local charges. As regards this separate ground for rehearing, Ameritech suggests that: (1) the Commission misunderstood the impact of its new policy and summarily rejected a reasonable alternative; (2) the notice requirements applicable to the disconnection of local service cannot reasonably be applied to the blocking of toll service; and (3) in adopting the same disconnection notice standards for both toll and local service, the Commission violated fundamental principles of administrative law.

- (7) In its November 25, 1996 pleading, Cleveland urges the Commission to reject all three applications for rehearing and to uphold its prohibition on forced universal toll blocking. Cleveland submits that, unless there is real evidence that selective toll blocking is not feasible, a prohibition on forced universal toll blocking should be understood as a logical and reasonable extension of the Commission's new policy forbidding the disconnection of local service for failure to pay toll charges. Taking the position that there is not now, nor has there ever been, a policy of allowing universal blocking of toll calls, Cleveland believes that a ban on forced universal toll blocking merely preserves the status quo. On that basis, Cleveland contends that Ameritech should not be heard to complain that the Commission is now "establishing" a new policy by its prohibition of universal toll blocking.

- (8) Edgemont/APAC addresses several issues in its November 25, 1996 pleading. First, Edgemont/APAC notes that the policy of applying substantive and procedural safeguards afforded under MTSS rules to toll disconnection was stated in the Commission's June 12, 1996 Finding and Order in this docket. Therefore, says Edgemont/APAC, none of the three November 15, 1996 rehearing applications are timely filed as they relate to this issue. Edgemont/APAC concedes that Ameritech, alone among these three rehearing applicants, did timely raise the issue in its prior application for rehearing, but Edgemont/APAC submits that the Commission considered and rejected Ameritech's arguments on this point and reiterated this policy in its October 16, 1996 entry on rehearing. In any event, says Edgemont/APAC, the disconnection notice requirements of the Commission's policy are clear, appropriate, reasonable, and lawful.

Second, Edgemont/APAC argues that Section 253(a) of the 1996 Telecommunications Act dictates a policy which favors selective toll blocking over universal toll blocking. That section of the Act provides that "no state or local statute or regulation, or other state or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." Edgemont/APAC submits that a universal disconnection policy would block all toll providers from doing business with a customer who has defaulted with one, which is exactly what the Act forbids.

Third, Edgemont/APAC claims that the three rehearing applicants have ultimately failed to provide evidence to support their claims that selective blocking is not technically feasible and prohibitively expensive, despite the fact that selective blocking has been an issue in this case from the inception of this docket.

- (9) Section 4903.10, Revised Code, provides that any party who has entered an appearance in a proceeding may apply for a rehearing with respect to any matter determined in the proceeding by filing an application within 30 days of the order in the Commission's journal. The Commission may grant and hold a rehearing on the matters specified in the application if, in its judgment, sufficient reason appears.

- (10) The applications for rehearing of the OTA, GTE, and Ameritech have each been filed timely as required by Section 4903.10, Revised Code.
- (11) The first issue we will address is Ameritech's contention that it is unreasonable and unlawful for the Commission to impose the same timing and notice requirements with respect to the disconnection of toll service as have long been applied to disconnection of local service. We believe that, as regards this particular issue, Ameritech's November 15, 1996 application for rehearing presents neither any new arguments which the Commission has not already considered and adequately addressed, nor grounds sufficient for granting rehearing of the Commission's October 16, 1996 entry on rehearing.

Ameritech, GTE, and OTA all claim that rehearing should be granted because the October 16, 1996 decision is unreasonable to the extent that it prohibits "immediate disconnection" where fraudulent use of toll service is suspected. We find no cause to grant rehearing on such grounds. In this docket, we have determined that the same substantive and procedural safeguards which pertain to local service disconnections under our current MTSS rules should also apply, on an interim basis during the pendency of our generic MTSS docket, to toll service disconnections. Even now, our existing MTSS rules do not strictly preclude disconnection of service without prior notice. In fact, Rule 4901:1-5-31(C), O.A.C., sets forth a list of circumstances under which disconnection of service without prior notice is specifically authorized, including where a subscriber uses telecommunications equipment in such a manner as to adversely affect the company's equipment, its service to others, or the safety of the company's employees or subscribers.

To the extent that a problem will actually be caused by the need to comply with our interim notice/timing requirements in a disconnection for nonpayment situation, it is one which Ameritech might have shown, but, tellingly, has not shown, to already exist under our current policy. After all, in this docket we are merely proposing to continue to enforce, on an interim basis as applied to both toll and local service, the service disconnection policy which already exists under our MTSS rules. Ameritech as well as other local exchange companies have been disconnecting usage-sensitive service

under our existing disconnection notice requirements for years. However, the record is devoid of even a single example of an instance where an Ohio customer has apparently utilized the "lag period" which exists between notice and disconnection as an opportunity to engage in fraudulent toll usage on any scale worthy of mention by Ameritech in support of its rehearing arguments on this point.

Nothing decided in this docket should be interpreted as precluding anyone (including either Ameritech or the Commission, itself) from raising and/or addressing within the recently-opened MTSS generic docket, any issue concerning the need for permanent toll disconnection procedures which are in any way different than those which will apply under the interim policy we have adopted in this docket. In fact, we emphasize that Case No. 96-1175-TP-ORD is specifically intended to be the appropriate forum for raising and considering such concerns.

We are open to reviewing in our MTSS docket, the specific issue of whether an expedited notice period should apply to toll disconnection. Any telephone company, in making its case for such a policy, however, would be well advised to provide verifiable auditable data which shows that a noticeable increase in the amount of uncollectable toll debt (presumably attributable to toll fraud) which accumulates specifically during the "lag period" (i.e., the time period between notice and actual disconnection) actually occurs when the "lag period" established under our interim toll disconnection policy is compared to that which has long existed under our local service MTSS rules. We are mindful that companies are already receiving compensation for the "lag period" through the working capital and uncollectible allowance set in either their last rate case (as is the case for traditional rate-of-return companies) or in an alternative regulation case (of any alt reg company) where price caps were started from an existing cost of service rate. Any forthcoming proposal to have us reduce or eliminate the "lag period" should also account for how this compensation from customers, which is built into existing rates, might be offset.

- (12) For a variety of reasons, Ameritech, GTE, and OTA all take the position that it is unreasonable and unlawful for the

Commission, as it did in its October 16, 1996 entry on rehearing, to require local service providers to develop and institute a tariffed selective toll blocking service. They claim, for example, that there is an insufficient evidentiary record, regarding both the cost and the technical feasibility of developing and implementing selective toll blocking, to support the imposition of this requirement. Ameritech, in particular, claims that the Commission has acted in contravention to the statutory requirements of Sections 4905.26 and 4905.381, Revised Code, by ordering "local service providers to offer a new service, without any analysis in the record of the technical capability of them to offer it, the costs involved, and without a reasoned analysis of the public interest benefits (or detriments) of the new service." GTE, in particular, contends that it was error to impose this requirement on local service providers who will bear the cost of implementing it, but receive no benefit in return. GTE and Ameritech both claim that the Commission erred by requiring selective toll blocking as opposed to a policy permitting a local service provider to block all 1+ toll access to customers who have failed to pay their bills.

We find that rehearing on these grounds should be granted to the limited extent necessary to make the clarification that when a local service provider disconnects toll service for nonpayment of either its own toll debt or that of another carrier, the method of toll disconnection which it utilizes: (1) must not be permitted to become a vehicle by which the customer's 1+ access to any other toll service provider is denied; (2) must be available, by tariff, on a nondiscriminatory basis to all toll service providers and (3) may consist of either a dePICing mechanism, as further described below, or else a selective toll blocking service.

There are two major policy objectives which the Commission is determined to achieve in this docket. The first policy objective is to ensure that no customer's local service could be disconnected for nonpayment of charges other than local service charges. The second policy objective, a logical extension of the first, is to ensure that toll disconnection, through either some form of toll blocking, or else through a dePICing mechanism, is available as a means by which a toll service provider may exercise its right to terminate toll service to its customer who

has not timely paid for such service, but should not be permitted to become a vehicle by which the customer's 1+ access to any other toll service provider is denied.

We are convinced that one form of toll disconnection which would meet our second policy objective can be accomplished through a simple dePICing mechanism⁴. The technical feasibility of dePICing, which effectively bars an otherwise presubscribed (nonpaying) customer's 1+ access to the toll service of the toll provider who utilizes the dePICing mechanism, is beyond question and well established of record (Tr. 19-26).⁵

From the standpoint of technical feasibility and cost of implementation, there appears no logical reason to distinguish a local service provider's ability to provide a 'no PIC' option to its customers⁶, and its ability to provide a dePIC service to toll service providers. Essentially similar, if not identical, technical specifications would be required in order to provide either of these two functions at the local service provider's switch. For this reason, the real issue at stake should not boil down to, as the rehearing applicants would have it, an analysis of LEC switch capability described in terms of the maximum number of carriers which can be added to a subscriber's single line for blocking purposes. Instead, we are requiring only the capability of a LEC switch to accommodate the deletion of the long distance provider from the customer account for purposes of 1+ calls. We are not requiring the LEC switch to add a non-existing capability nor utilization of any additional memory capability. Under such circumstances, and in light of the arguments raised on rehearing, there is no

⁴ We use the term "dePICing" to refer to the process by which a toll provider (whose presubscribed toll customer is the one being "dePICed") can cause the company providing local service to the toll provider's presubscribed toll customer, to bar continued 1+ access by that customer to the toll provider's own, but to no other toll provider's, toll service. DePICing can be thought of as a means by which the toll provider who wishes to disconnect 1+ toll access to its presubscribed customer can effectively force the customer into the same position as would prevail were the customer to have made its own choice of the "no-PIC" option.

⁵ The record also reflects that neither dePICing, nor any type of toll blocking can be accomplished at an electromechanical switch, or, in most instances, at a nondigital, analog switch (Tr. 22-23).

⁶ Both this Commission, as well as the FCC, recognize that customers of any local service provider must be free to exercise a choice to have no presubscribed toll carrier at all (Tr. 21). In this sense, the "no PIC" option, whatever its technical and cost implications, is one which, as a matter of practical application, is already available to all local service customers. Further, this Commission has never recognized any basis for imposing a charge on an end-user in the exercise of this right.

reason to conclude that ecost and/or technological implications must outweigh our pursuit of our second policy objective through implementation of the specific policy directives being adopted by the Commission in this docket.

We will leave it for the local service providers to determine which toll disconnection method (i.e., dePICing or selective toll blocking) they will choose to employ when engaging in toll disconnection for nonpayment of toll debt. We will, however, require that whichever method a local service provider, itself, utilizes when conducting toll disconnection on its own behalf (whether because it has toll customers of its own or because it has purchased the toll debt of a toll service provider), that same form of toll disconnection must also be made available by that local service provider, by tariff, on a nondiscriminatory basis to all toll service providers.

In this docket we have imposed on local service providers a requirement to provide a tariffed toll disconnection (for nonpayment) service which, either through dePICing or through toll blocking, would effectively deny, on a carrier specific basis, a specific toll subscriber's 1+ presubscribed toll access to the particular toll provider who utilizes the disconnection service. However, we have not thereby placed undue responsibility for toll disconnection, in general, on local service providers rather than on toll service providers. Certainly, our policy leaves the burden upon toll providers to develop and implement methods for denying, where appropriate, toll access in all its other myriad forms, perhaps most notably through 10XXX dialing.

We have a simple response to the claim, made by both GTE and Ameritech, that it is unreasonable for the Commission to prohibit universal toll blocking, i.e., blocking of all 1+ toll access to customers who have failed to pay their bills to any one toll provider. Quite simply, universal toll blocking amounts to the very antithesis of the second policy objective we seek to accomplish through this case. Nevertheless, as we shall describe in further detail in Finding (13), we find it practically necessary, for the time being, to allow local service providers to engage in the practice of universal toll blocking as a method of toll disconnection for nonpayment, but only until either the established deadline for implementing 1+ intraLATA equal access or, if sooner, such time as they have

in place a selective toll blocking service which complies with our directives in this docket.

We have already rejected and adequately addressed within our October 16, 1996 entry Ameritech's contention that the Commission needs to invoke Sections 4905.26 and 4905.381, Revised Code, in order to establish new industry-wide policy in a generic case. Ameritech has made no new arguments which would cause us to grant rehearing on this point. The Commission has the requisite jurisdiction to proceed in the fashion which it did in this matter. The Commission is authorized to make such investigations as it deems necessary and to prescribe reasonable standards of telephone service which shall be considered minimum requirements for the furnishing of adequate telephone service. The rehearing applicants have been given an adequate opportunity to provide whatever information they wish for the Commission to learn concerning the technical feasibility and costs associated with the Commission's new policy. Toll provider-specific disconnection has long been a live issue in this docket. It was clearly an issue on which the Commission, in its August 22, 1996 entry, solicited information from local service providers and others at a time prior to issuing the October 16, 1996 entry which is now the subject of the three pending rehearing applications. It was also clearly a focal point within the initial comments of Edgemont/APAC and other parties filed on October 3, 1995.

- (13) OTA and GTE both contend on rehearing that, for the Commission to require implementation of selective toll blocking prior to the implementation of intraLATA equal access would require local service providers to incur, in a premature fashion, costs that would otherwise be associated only with the implementation of intraLATA equal access. We find that rehearing should be granted on such grounds. It is important to understand that, in granting rehearing on such basis, the Commission is, nevertheless, still imposing an absolute requirement that local service providers should soon, and by a particular deadline, be required to establish either a dePicing service or a selective toll blocking service which must be available through tariff to all toll service providers on a nondiscriminatory basis. However, the Commission is granting rehearing for the purpose of, in essence, extending the

deadline which local service providers must meet in establishing such service offerings. We find that the deadline for establishing such services should be made to coincide with the date for implementation of intraLATA equal access in Ohio, as called for in the Commission local competition generic docket, Case No. 95-845-TP-COI.

In the meantime, the Commission will permit local service providers to engage in the practice of universal toll blocking (as a means of toll disconnection for nonpayment of toll debt) on an interim basis until the occurrence of this deadline for establishing their dePICing and/or a selective toll blocking tariff service offerings. However, once a local service provider has established a toll disconnection service which complies with all requirements established for such in this docket, it shall no longer be permitted to engage, on an intrastate Ohio basis, in the practice of universal toll blocking (as a means of toll disconnection for nonpayment of toll debt), either on its own behalf, or on behalf of any other entity. This requirement would not preclude end user customers from selecting toll restriction service as a discretionary service. If, during the interim period in which it is authorized to do so pursuant to this docket, a local service provider chooses to engage in the practice of universal toll blocking (as a means of toll disconnection for nonpayment of toll debt), whether on its own behalf or on behalf of some other entity, it must do so pursuant to a tariffed service offering which shall be made available to all toll service providers on a nondiscriminatory basis. Additionally, universal blocking service (as a means of toll disconnection for nonpayment of toll debt), as contemplated by this entry on rehearing, must not be configured in a way which would block 800 and 888 toll access. In particular, it must be configured in a way which will permit customer access to the toll network on a credit card basis, debit card basis, collect call basis, and a third-party call basis.

- (14) In its November 15, 1996 application for rehearing, Ameritech reiterates an argument which it has already raised, and which the Commission has already rejected, at an earlier stage in this proceeding, namely its desire to have this Commission adopt a disconnection policy similar to that recently adopted in the state of Michigan. In this regard, Ameritech has raised no new argument or issue which the Commission has not already adequately considered and addressed. For the record,

this Commission has reviewed Michigan's approach, but has simply decided to move in a different policy direction than has our sister state. As noted above, our first policy objective in this case has been to ensure that no customer's local service could be disconnected for nonpayment of charges other than local service charges. From the Ohio Commission's perspective, the major drawback of the Michigan plan is that it would fail to meet this objective.

- (15) Next, we will address the OTA's and GTE's mutual requests for clarification on four issues which they claim have been brought to light by our October 16, 1996 decision, clarifications which they claim to seek without regard to whether rehearing is denied or granted on these four or any other issues. We have already addressed the first of their four concerns by indicating, above, that the required implementation of selective toll blocking and/or dePICing service, as we envision it, must occur simultaneously with the required implementation of intraLATA equal access. Likewise and second, based on what we have stated in Finding (12), and subject to any future decisions we may come to render pursuant to the waiver procedures which we have established in this docket, it should be clear that we do not believe that the institution of selective toll blocking and/or dePICing service, as we envision it, would be encumbered by the limitations of current switching technology. Third, as regards the accounting issue on which the OTA and GTE are seeking clarification, we must indicate that nothing that we have said in this case should preclude a company from arguing in another case or forum (e.g., a rate case or an alt. reg. case), that the cost of developing or implementing toll disconnection service, as required under this docket, should be allocated to intrastate, regulated accounts. Nevertheless, such a determination need not be made by this Commission at this time or in this case. Fourth, we have, above, already stated whatever may be presently necessary to clarify our policy with respect to the use of disconnection, without prior notice, in response to instance of toll fraud.
- (16) Rehearing is denied with respect to any and all other issues raised in the applications for rehearing, to the extent they have not otherwise been fully addressed in this entry on rehearing. Thus, in all respects, except to the extent specifically modified or clarified in this entry on rehearing, the Commission's October 16, 1996 entry on rehearing in this case,

as modified by the entry *nunc pro tunc* issued on October 31, 1996, shall remain unchanged, and in full force and effect, as if incorporated by reference herein.

- (17) We find it necessary to revise, for purposes of clarification, the third paragraph of our Statement of Policy, as it previously appeared, appended to our October 16, 1996 entry on rehearing. For purposes of clarification and ease of reference, the Commission has set forth, as Appendix A to this entry on rehearing, a new, complete version of the Statement of Policy, reflecting those clarifications and modifications which the Commission has decided to make as a result of its consideration of all issues raised on rehearing in this case.
- (18) We note in closing that, as we have indicated previously in the October 16, 1996 entry on rehearing, to the extent that providers of either local service or toll service (or both) find themselves in the position of being unable to comply in a timely fashion with any of the policy directives and operational requirements which have been established in this docket, they can and should avail themselves of the procedures established in this docket for obtaining temporary waiver of any such directives and requirements.

It is, therefore,

ORDERED, That, in accordance with the above findings, the applications for rehearing and requests for clarification of issues filed by the OTA, GTE, and Ameritech are granted to the limited extent indicated in Finding (12), (13), and (15), above. It is, further,

ORDERED, That the new disconnection policy which the Commission has previously adopted in this docket is hereby revised and clarified pursuant to the above findings, and is fully set forth in Appendix A to this entry on rehearing. It is, further,

ORDERED, That, in all other respects, the applications for rehearing and requests for clarification of issues filed by the OTA, GTE, and Ameritech, are denied in their entirety, in accordance with the above findings. It is, further,

ORDERED, That, in accordance with the above findings, in all other respects, the Commission's October 16, 1996 entry on rehearing in this case, as modified by the entry *nunc pro tunc* issued on October 31, 1996, shall remain unchanged, and in full force and effect, as if incorporated by reference herein. It is, further,